

Honorable William H. Pauley, III
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, N.Y. 10007

DEC 16 2014

Re: Roderick Gunn v. United States

14-Civ-3228 (WHP)

Dear Judge Pauley:

This letter styled motion is submitted as a request for a Reconsideration of the Court's November 24, 2014 Order {Dock. 12} denying the Request for Affidavit from Government, and Request for In-Camera review of Government's death penalty submission for Needham. Reconsideration is requested on the grounds that the Court's Order rests on the belief that the Applications were filed [after] the Government responded to the § 2255 claims. See {Nov. 24 Order, page 3}. However, the applications were filed two months prior to the Government's response, and a follow-up letter filed [after] the Government responded. The Government does not admitted, nor denied the allegation that it used perjured testimony, and the Affidavit is necessary to establish the truth and to develop the record, and for any appellate proceedings concerning this matter. I'm also requesting a Reconsideration of the application seeking In-Camera review (and disclosure) of Needham's death penalty submission. The Court's denial order stated that "Gunn fails to show how the Death Penalty submission would support his

claim." {Memo & Order at page 3}. To the contrary, I had presented clear and concise facts within the Affidavit attached to the In-Camera Review application, stating how it would assist my claim. In particular, the affidavit avers in part that: 1) Mr. Palma and Needham's attorney had a discourse in my presence about the Government seeking the death penalty against Needham, 2) that Needham's attorney stated that it's the Government's theory that Needham ordered Davis to kill Grey, and 3) that Needham plays a major role in the Wickham Avenue Robbery and Murder.

The discourse between counsels demonstrated that the Government's theory of Needham's role in the Wickham Avenue offense was a major role. After Needham became a cooperating witness, she was allowed to minimize her role, including obviating herself from the role as the person who planned the Wickham crime. This reconsideration should be granted in light of Banks v. Drekte, 157 L. Ed 2d 1166 (2004), in which the Supreme Court held that "[a] witness role in the offense was relevant to the jury assessment of the case." The Government's case was dependent on Needham's testimony, which is a significant reason the jury should have been allowed to assess her true role. The authority of Shih Wei Su v. Filion, 335 F.3d 119 (2d Cir 2003) favors granting requests herein for the Affidavit and the In-camera review and disclosure. The death penalty submission presented clear facts of the Wickham Avenue events which included the planning phase of the crimes and each person's role in the offense. Thus, a denial of this request would deprive me of my due process rights to meaningful opportunity to be heard, because it would prevent

me from preparing a meaningful Reply to the Napue claim.

WHEREFORE, I respectfully request that the Court grant the reconsideration application seeking an Affidavit from the Government, stating whether or not the Government knowingly allowed Needham to testify falsely about her role in the Wickham Avenue robbery/murder offense. It should be of no difficulty for the Government to provide this Affidavit, and concede to the in-camera review and disclosure of Needham's death penalty submission if the allegations were false. I pray that the court expedite its response to this reconsideration motion, on the grounds that no extension is requested beyond the January 9, 2015 date.

Dated, this 11th day of December, 2014

Respectfully submitted

R. Gunn

Roderick Gunn

cc: Daniel M. Tracer (AUSA)
One Saint Andrew Plaza
New York, N.Y. 10007

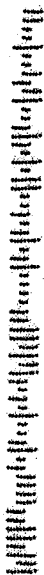
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